IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 33618 of 2006(B)

PETITIONER:

ELDHOSE MATHEW,
S/O.ISSAC MATHEW, THAZHATHOOT HOUSE,
NELLIMATTOM, KOTHAMANGALAM.

BY ADV. SRI.P.V.GEORGE(ONAKKOOR)
SRI.REJI GEORGE
SMT.MANJU RAJAN

RESPONDENTS:

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1. THE REGIONAL TRANSPORT AUTHORITY,
SUB REGIONAL TRANSPORT OFFICE,
KOTHAMANGALAM, REP. BY ITS SECRETARY.

2. STATE OF KERALA,
REP. BY THE SECRETARY,
TRANSPORT DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT.M.K.PUSHPALATHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.33618 of 2006-B

Dated this the 29th day of March, 2007

JUDGMENT

The petitioner is the owner of a tractor bearing registration No.KL-17/8379. The petitioner has fitted trailer to his tractor which can be operated hydraulically. When he moved for fitness certificate, he was served with Ext.P5 communication stating that he should fit a speed governor as fixation of the same is mandatory for tippers. The said communication is issued relying on Ext.P6 notification issued by the Government in which 'Tipper Lorry' is defined as any class of a Goods vehicle (except three wheelers) of which the platform for carrying the goods can be raised or tilted hydraulically or through some other means for the purpose of unloading the goods. Since the petitioner made conversion of his tractor, the same answers the definition of tipper. If it is a simple tractor, it will not be covered by the said definition. once it is covered, the petitioner has to fix the speed governor. But, the petitioner seeks a declaration that Ext.P6 cannot applied to vehicles, the maximum speed of which are below 60 Kilometres. Speed Governors are meant to maintain the speed of heavy vehicles at 60 kilometres per hour.

2. The first respondent has filed a counter affidavit supporting the notification and the impugned direction.

3. I heard the learned counsel on both sides. The learned counsel

for the petitioner submitted that a tractor never reach a speed beyond 30.4 kilometres per hour. If that be so, speed governor may not be necessary. I think it is a technical matter which should be considered by the second respondent. The petitioner may move the second respondent seeking exemption of his vehicle from the operation of Ext.P6. In that event, the said respondent may consider and pass orders on it, within one month from the date of receipt of this judgment along with that representation.

K.BALAKRISHNAN NAIR, JUDGE.

MS